IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

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W.P.Nos.15670 & 16234 of 1994 and 16616 of 1995

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W.P.No.15670 of 1994:

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Between:

1 Velesety Balaeswara Rao S/o Satyanarayana
R/o Eturunagaram (V) & (M), Warangal Dist.
2 Modem Rajaiah S/o Chandraiah
R/o Eturunagaram (V) & (M), Warangal Dist.
3 Bukya Mothilal S/o Dhakya Naik
R/o Eturunagaram (V) & (M), Warangal Dist.
4 Guntapally Sarveswar Rao S/o Pitchaiah
R/o Eturunagaram (V) & (M), Warangal Dist.
5 Annavarapu Sreenivas Reddy S/o Gopi Reddy
R/o Eturunagaram (V) & (M), Warangal Dist.
6 Nunavath Balaram S/o Muniya
R/o Eturunagaram (V) & (M), Warangal Dist.
7 Mohd. Anwar Pasha S/o Sarvar
R/o Eturunagaram (V) & (M), Warangal Dist.
8 Chanda Nageswar Rao S/o Janaiah
R/o Eturunagaram (V) & (M), Warangal Dist.
9 K. Ramulu S/o Papaiah
R/o Eturunagaram (V) & (M), Warangal Dist.
10 P. Laxminarasaiah S/o Muniya
R/o Eturunagaram (V) & (M), Warangal Dist.
11 G. Laxminarayana S/o Narasaiah
R/o Eturunagaram (V) & (M), Warangal Dist.
12 Koragatla Pommalaiah S/o Muthaiah
R/o Eturunagaram (V) & (M), Warangal Dist.
13 Sudhakar Maduguri S/o Potharaju
R/o Mulugu Village, Warangal Dist.
14 Chatru Guguloth S/o Narsingh

R/o Mulugu Village, Warangal Dist.
15 Ravi Reguri S/o Komaraiah
R/o Mulugu Village, Warangal Dist.
16 Bhoom Reddy Dakareddigari S/o Rajireddy
R/o Mulugu Village, Warangal Dist.
17 M. Varalakshmi W/o Mutyaloo
R/o Mulugu Village, Warangal Dist.
18 Gullepali Ramesh S/o Rajeshekaram
R/o Narsampet Village, Warangal Dist.
19 Aroju Chandrasekhar S/o Mogili
R/o Narsampet Village, Warangal Dist.
20 A. Raghu Kumar S/o Komaraiah
R/o Narsampet Village, Warangal Dist.
21 T. Lingaiah S/o Kanakaiah
R/o Narsampet Village, Warangal Dist.
22 H. Mallaiah S/o Yellaiah
R/o Narsampet Village, Warangal Dist.
23 E. Papaiah S/o Ramaiah
R/o Narsampet Village, Warangal Dist.
24 V. Nageswar Rao S/o Bazar
R/o Narsampet Village, Warangal Dist.
25 A. Mallaiah S/o Komaraiah
R/o Narsampet Village, Warangal Dist.
26 D. Narsaiah S/o Pullaiah
R/o Narsampet Village, Warangal Dist.
27 H. Muthaiah S/o Yellaiah
R/o Narsampet Village, Warangal Dist.
28 Agaboina Muthaiah S/o Sammaiah
R/o Narsampet Village, Warangal Dist. **..... PETITIONERS**

AND

1 State of A.P. rep. by Secretary to Govt.
Legislative Affairs Law Dept., Secretariat,
Hyderabad
2 The A.P. Girijan Coop. Corporation Ltd.

Through Vice Chairman & M.D.
Visakhapatnam
3 The Divisional Manager Girijan Coop. Corpn. Ltd.
Eturunagaram, Warangal Dist.
4 The Branch Manager Girijan Coop. Corpn. Ltd.
Eturunagaram, Warangal Dist.
5 The Branch Manager Girijan Coop. Corpn. Ltd.
Mulugu, Warangal Dist.
6 The Branch Manager Girijan Coop. Corpn. Ltd.
Narsampet, Warangal Dist. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a

Writ of Mandamus or any other appropriate Writ or Writs, order or direction, declaring Act 2 of 1994 issued by the State of A.P. and published in A.P.Gazette on 15-1-1994 and the consequential Circular dt: 8-8-1994 issued in Rc.No.981/90/AIE on the file of the 2nd respondent as illegal, arbitrary, unconstitutional and without jurisdiction, by directing the Respondents 2 to 6 regularise the services of the petitioners by continuing them in service and by giving all consequential benefits.

Counsel for the Petitioners: MR.K.RAGHUVEER REDDY

Counsel for the Respondent No.1: G.P for Finance & Planning.

Counsel for the Respondent Nos.2 to 6: MR.N.SRIDHAR REDDY

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W.P.No.16234 of 1994:

Between:

1 E.Ramesh Babu, S/o. Vaikuntam.
Mahadevpur, Karimnagar.
2 A.Satyanarayana, S/o. Lachanna.
Mahadevpur, Karimnagar.
3 Boda Narayana, S/o. Buchinarasaiah.
Mahadevpur, Karimnagar.
4 M.Satyanarayana, S/o. Mallaiah.
Mahadevpur, Karimnagar.
5 Pusala Rajesh Kumar, S/o. Gattaiah.
Mahadevpur, Karimnagar.
6 M.Pochaiah, S/o. MAllaiah.
Mahadevpur, Karimnagar.
7 N.Nirmala, D/o. N.Kondraju.
Nellore.
8 Chevuri Sivaji, S/o. Ch.Ramaswamy.
Nellore.
9 Y.Padmamma, D/o. Y.Chechaiah.
Nellore.
10 T.Saradha, W/o. Srihari.
Nellore.
11 S/Sreenivasulu, S/o. S.Tirupal Naik.
Nellore.
12 S.Subramanyam, S/o. S.Chinnaiah,
Nellore.
13 S.Ramanaiah, S/o. Subbaramaiah.
Nellore.
14 R.Ravindra Babu, S/o. Ramanaiah.
Nellore.
15 Power Though, S/o. Teja.
R/o. Utnoor, Adilabad.
16 M.D.Tajoddin, S/o. Mohinuddin.
R/o. Utnoor, Adilabad.
17 M.D.Nazeer, S/o. Md.Bhsumiyya,
R/o. Utnoor, Adilabad.
18 V.Surender, S/o. Narsaiah.
R/o. Utnoor, Adilabad.

19 J.Prakash, S/o. Nandu.
R/o. Utnoor, Adilabad.
20 M.Nagarao, S/o. Badu.
R/o. Utnoor, Adilabad.
21 M.Ramanna, S/o. Yellaiah.
R/o. Utnoor, Adilabad.
22 R.Baburao, S/o. Shay Rao.
R/o. Utnoor, Adilabad.
23 A.Jangu, S/o. Raju.
R/o. Utnoor, Adilabad.
24 Raghunath, S/o. Venkati.
R/o. Utnoor, Adilabad.
25 S.Ananda Rao, S/o. Karurao.
R/o. Utnoor, Adilabad.
26 Rama Rao. S/o. Raju.
R/o. Utnoor, Adilabad.
27 M.Beemrai, S/o. somu.
R/o. Utnoor, Adilabad.
28 Manik Rao, S/o. Jaivath.
R/o. Utnoor, Adilabad.
29 M.Dev Rao, s/o. Gangu.
R/o. Utnoor, Adilabad.
30 Md.Mujaith, S/o. Abdul.
R/o. Utnoor, Adilabad.
31 Ch.Nanu, S/o. Parsuram.
R/o. Utnoor, Adilabad.
32 Mekal Rajesham, S/o. Rajanna.
R/o. Utnoor, Adilabad.
33 Jadav Subash, s/o. Dudram.
R/o. Utnoor, Adilabad.
34 Arka Mothiram, S/o. Mothiram.
R/o. Jainoor, Adilabad.
35 R.Anjayaiah, S/o. Laxman.
R/o. Jainoor, Adilabad.
36 Athram Jalimshaw, S/o.Ganpathi,
R/o. Jainoor, Adilabad.
37 Naitham Nanajee, S/o. Ganpathi.
R/o. Jainoor, Adilabad.
38 Maruthi, S/o. Jangu.
R/o. Jainoor, Adilabad.
39 M.Venugopal, S/o. Laxmikanth.
R/o. Jainoor, Adilabad.
40 Sheshikala, D/o. Mothiram.
R/o. Jainoor, Adilabad.
41 K.Goutham, S/o. Maribha.
R/o. Jainoor, Adilabad. **..... PETITIONERS**

AND

1 State of A.P., Rep. Secretary to Govt.,
Legislative Affairs, Law Department,
Secretariat, Hyderabad.
2 The Girijan Coop. Corporation Ltd., Rep. Vice Chairman & M.D.,

Visakhapatnam.
3 The Branch Manager, Girijan Primary Coop., Marketing Society,
Mahadevpur, Karimnagar.
4 The Branch Manager, Girijan Primary Coop., Marketing Society,
Nellore.
5 The Branch Manager, Girijan Primary Cooperative Marketing Society,
Utnoor, Adilabad.
6 The Br.Manager, Girijan Primary Coop. Marketing Society,
Jainoor, Adilabad. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or writs, order or direction, declaring Act 2/1994 issued by State of A.P. and published in A.P. Gazette on 15/01/1994 and the consequential circular dated 08/08/1994 issued in Rc.No.981/90/AIE on the file of the 2nd respondent as illegal, arbitrary, unconstitutional and without jurisdiction, directing the respondents 2 to 6 to regularise the services of the petitioners, by continuing them in service and by giving all consequential benefits, award costs.

Counsel for the Petitioners: MR.K.RAGHUVEER REDDY

Counsel for the Respondent No.1: G.P for Finance & Planning

Counsel for the Respondent Nos.2 to 6: MR.N.SRIDHAR REDDY

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W.P.NO.16616 OF 1995:

Md.Abdul Rasheed, S/o. Abdul Rasool,
R/o. Jannaram Village, Warangal District. **..... PETITIONER**

AND

1 The A.P.Girijan Coop.Corporation Ltd.

at Visakhapatnam through its Vice Chairman
& Managing Director,
2 The Divisional Manager, Girijan Coop. Corporation Ltd.,
Asifabad, Adilabad District.
3 The Senior Manager, Girijan Primary Coop. Marketing Society,
Jannaram Village, Warangal District. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a

Writ of Mandamus or any other appropriate Writ or Writs, order or direction, declaring the action of the respondents in not regularising the services of the petitioner and in seeking to dispense with his services as illegal, arbitrary and contrary to the G.O.Ms.No.212 dated 22-4-1994 and to consequently direct the respondents to regularise the services of the petitioner by continuing him in the service, award costs.

Counsel for the Petitioner: MR.K.RAGHUVEER REDDY

Counsel for the Respondents: MR.N.SRIDHAR REDDY

The Court made the following :

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COMMON ORDER:

Writ Petition Nos.15670 and 16234 of 1994 are filed with the prayer as follows:

> "For the reasons mentioned in the accompanying affidavit the petitioners herein pray that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or Writs, order or direction, declaring Act 2 of 1994 issued by the State of A.P., and published in A.P. Gazette on 15-1-1994 and the consequential Circular dated 8-8-1994 issued in RC.No.981/90/AIE on the file of the second respondent as illegal, arbitrary, unconstitutional and without jurisdiction, by directing Respondents 2 to 6 to regularize the services of the petitioner(s) by continuing them/him in service and by giving all consequential benefits award costs and pass such other and further orders."

Writ Petition No.16616 of 1995 is filed with the prayer as follows:

> "For the reasons mentioned in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or writs, order or direction, declaring the action of the respondents in

not regularizing the services of the petitioner and in seeking to dispense with his services as illegal, arbitrary and contrary to the G.O.Ms.No.212 dated 22-4-1994 and to consequently direct the respondents to regularize the services of the petitioner by continuing him in the service; award costs and pass such other order and further orders as are deemed fit and proper in the circumstances of the case."

The petitioners in W.P.No.15670 of 1994, who are 28 in number, the petitioners in W.P.No.1234 of 1994, who are 41 in number, and the sole Petitioner in W.P.No.1616 of 1995 claimed that they were working as clerks, typists, watchman etc., with the second respondent-Corporation and its officers i.e., respondents 3 to 6, for various periods ranging from one year to four years by the date of filing of this writ petition i.e., as on 31-8-1994.

The details of the individual petitioners, perhaps, are not necessary. The fact that they were so working is not disputed by the respondent-Corporation in its counter. The legislature of Andhra Pradesh passed Act 2 of 1994 known as A.P. (Regulation of Appointments to Public Services and Rationalisation of Staff Pattern and Pay Structure). The Act, in substance, dealt with the prohibition of daily wage appointments and regularization of temporary appointments in various categories of public service. It is a notorious fact that by the date of the Act, and perhaps even subsequently, large number of people were working on such temporary or daily wage basis either in the Government of Andhra Pradesh or in the various bodies controlled by the Government of Andhra Pradesh. Eventually, the abovementioned Act came to be challenged and the matter went up to the Supreme Court. The Supreme Court by its judgment dated 12-8-1992 observed that it is desirable for the State Government to evolve an appropriate policy for the regularization of some of those employees who were working on daily wage basis or temporary basis. Consequent upon the said observations of the Supreme Court, the Government of Andhra Pradesh reviewed the entire matter and issued G.O.Ms.No.212 Finance & Planning (FW.PC III) Department, dated 22-4-1994, to regularise the services of such persons who worked continuously for a minimum period of five years and are continuing as on 25-11-1993 subject to the fulfillment of the various conditions enumerated in the said G.O.

The prescription of the cutoff date as 25-11-1993 itself was the subject matter of controversy before this Court and the Supreme Court. In a Judgment of the Supreme Court reported in ***District Collector Vs M.L. Singh,*** it is held that if an employee worked

continuously for a period of five years with any one of the bodies covered by the abovementioned Act, it is immaterial as to whether such an employee completed five years of service as on 25-11-1993 i.e., the cut off date mentioned earlier. In fact, the relevant portion of the judgment reads as follows:

> "In so far as regularization is concerned, we are of the view that the High Court has rightly directed that on the basis of the Notification G.O.Ms.No.212, the respondent employees shall be regularized with effect from the date or dates, they completed five years' continuous service. It is, however, made clear that the other conditions laid down in the said G.O.Ms.No.212 will have to be satisfied for the purpose of regularization. The Special Leave Petitions are disposed of accordingly. No costs."

Admittedly, in the present case, the petitioners in all the three writ petitions have worked for various periods ranging from one to four years by the date of filing of the writ petition. However, by virtue of the interim orders granted by this Court the petitioners in W.P.Nos.15670 of 1994 and the petitioner in W.P.No.16616 of 1995, continued in service by the respondent-Corporation so far.

Now, at this stage, the question that falls for consideration, is as to whether the period of continuation of the employment of the petitioners pursuant to the interim directions issued by this Court, can be taken into account for the purpose of computing their services so as to regularize them in terms of G.O.Ms.No.212.

This issue, which is apparently not a mere *res integra*, is covered by an unreported judgment of this Court in W.P.No.9554 of 1998 dated 23-4-1998 wherein the learned single Judge, after taking note of the fact that the petitioner therein continued in service for a period of five years as a temporary employee pursuant to the interim order of this Court, came to the conclusion that his services were as well required to be regularized in terms of G.O.Ms.No.212, referred to earlier. In fact the unsuccessful respondent-State carried the matter in Appeal in W.A.No.1276 of 1998, which was dismissed by a Division Bench of this Court on 18-2-1999 confirming the decision of the learned single Judge.

WP.Nos.15670 of 1994 & W.P.No.16616 of 1995:

Admittedly the petitioners in both these writ petitions were in service of the

respondent-Corporation as on 25-11-1993 and thereby they fulfill one of the prime requirements as to the completion of continuous service of five years as contemplated under G.O.Ms.No.212. Therefore, it would be appropriate to dispose of these writ petitions directing the respondents to consider the cases of each of the petitioners herein for regularization in terms of G.O.Ms.No.212. However, it is made clear that the services of the petitioners, who have been continuing pursuant to the directions of this Court, shall be taken into consideration irrespective of the cut off date as contemplated under the above G.O.

Accordingly, the writ petitions are disposed of. The respondents are directed to consider the cases of the petitioners in these writ petitions and take an appropriate decision in accordance with law as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order.

However, it is further made clear that *Status quo* obtaining as on today in so far as the services of these writ petitioners is concerned, shall be maintained till their cases are considered under G.O.Ms.No:212.

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W.P.No.16234 of 1994:

These unfortunate petitioners, who are 41 in number, have worked on temporary basis/daily wage basis with the respondent-Corporation. By the date of filing of the writ petition, these writ petitioners have not completed continuous service of five years. Apart from that, the only distinguishing feature in this writ petition with that of W.P.Nos.15670 of 1994 and W.P.No.16616 of 1995, is that there are no interim orders directing the continuance of the petitioners herein, as a consequence of which, they could not work for a continuous period of five years with the respondent-Corporation.

In the circumstances, their case stands on a different footing than that of the petitioners in Writ Petition Nos.15670 of 1994 and 16616 of 1995, which are allowed, and therefore, the petitioners herein are not entitled to the benefits conferred under G.O.Ms.No.212.

Therefore, the Writ Petition is dismissed. There shall be no order as to costs.

In the result, W.P.Nos.15670 & 16616 of 1995 are disposed of and W.P.No.16234 of 1994 is dismissed. There shall be no order as to costs.

17-02-2005

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Copy to:

1 The Secretary to Govt. State of A.P.,
Legislative Affairs Law Dept., Secretariat,
Hyderabad
2 The Vice Chairman & M.D.,

The A.P. Girijan Coop. Corporation Ltd.

Visakhapatnam

3 The Divisional Manager Girijan Coop. Corpn. Ltd.
Eturunagaram, Warangal Dist.

4 The Branch Manager Girijan Coop. Corpn. Ltd.
Eturunagaram, Warangal Dist.

5 The Branch Manager Girijan Coop. Corpn. Ltd.
Mulugu, Warangal Dist.

6 The Branch Manager Girijan Coop. Corpn. Ltd.
Narsampet, Warangal Dist.

7 Two CCs to the G.P. for Finance and Planning,

High Court Buildings, High Court of A.P.,

Hyderabad.

8 Two CD copies.

9 The Branch Manager, Girijan Primary Co-operative

Marketing Society, Mahadurpur, Karimnagar.

10 The Branch Manager, Girijan Primary Co-operative

Marketing Society, Nellore.

11 The Branch Manager, Girijan Primary Co-operative

Marketing Society, Utnoor, Adilabad.

12 The Branch Manager, Girijan Primary Co-operative

Marketing Society, Jainoor, Adilabad.

13 The Divisional Manager, Girijan Co-operative Marketing

Society, Jannaram village, Warangal District.